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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/690,817	10/23/2003	Yoshitaka Mishima	2038-303	5433

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LOWE HAUPTMAN GILMAN AND BERNER, LLP
1700 DIAGONAL ROAD
SUITE 300 /310
ALEXANDRIA, VA 22314

EXAMINER

ANDERSON, CATHARINE L

ART UNIT PAPER NUMBER

3761

DATE MAILED: 12/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/690,817	Applicant(s) MISHIMA ET AL	
	Examiner C. Lynne Anderson	Art Unit 3761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>3/22/04, 10/23/03</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-2 and 5-6 are rejected under 35 U.S.C. 102(e) as being anticipated by Williams (6,641,567).

Williams discloses a disposable article 10, as shown in figure 1, comprising a holder member 11 having front and rear waist regions 15 and a crotch region 14. A bodily discharge receiving member 20 is detachably held by the holder member 11, as shown in figure 1. The crotch region 14 is provided with a through-hole 17, as shown in figure 2, with an annular portion inserted through the hole 17 to form a protrusion 22 and a bursiform portion 26.

With respect to claim 2, the front and rear waist regions 15 are releasably engaged to define a waist-hole and leg-holes, as shown in figure 1.

With respect to claim 5, the bursiform portion 26 is liquid-impervious, as disclosed in column 3, lines 29-31.

With respect to claim 6, the holder member 11 is fully capable of being washed and reused.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Williams (6,641,567).

With respect to claim 3, Williams discloses all aspects of the claimed invention with the exception of the front and rear waist regions being permanently joined together. Diapers having the front and rear waist regions permanently joined together are well-known in the art to provide a pull-on diaper that does not require fastening members. It would therefore be obvious to one of ordinary skill in the art at the time of invention to permanently join the front and rear waist regions of the diaper of Williams to provide a pull-on diaper that does not require fastening members.

With respect to claim 7, Williams discloses all aspects of the claimed invention with the exception of the holder member being elastically stretchable. It is well-known in the art that diapers comprise elastically stretchable waistbands and leg openings to provide a secure fit and reduce leakage. It would therefore be obvious to one of ordinary skill in the art at the time of invention to make the holder member of Williams elastically stretchable to provide a secure fit and reduced leakage.

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Williams (6,641,567) in view of Washington (4,886,508).

Williams discloses all aspects of the claimed invention with the exception of the protrusion comprising a flexible and elastically compressive plastic. Washington discloses a holder member having a through-hole holding protruding bursiform member, as shown in figure 6. The protrusion is formed of a flexible and elastically compressive material which is soft yet returns to its original shape, as disclosed in column 2, lines 40-47. It would therefore be obvious to one of ordinary skill in the art at the time of invention to make the protrusion of Williams from a flexible and elastically compressive material, as taught by Washington, so the protrusion will be soft but will also retain its shape.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. U.S. Patents 4,857,064; 5,342,583, and 6,007,524 disclose holder members having protruding bursiform containment elements.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to C. Lynne Anderson whose telephone number is (571) 272-4932. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tanya Zalukaeva can be reached on (571) 272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3761

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

WA
cla

December 11, 2005

TATYANA ZALUKAEVA
SUPERVISORY PRIMARY EXAMINER

